

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

<b>JAMES M. MALARIK,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>Civil Action No. 11-1255</b>
	)	<b>District Judge Terrence F. McVerry</b>
<b>PENNSYLVANIA BOARD OF PROBATION AND PAROLE; <i>Et Al.</i>,</b>	)	
	)	
<b>Respondents.</b>	)	

**MEMORANDUM ORDER**

On September 30, 2011, the above captioned case was initiated by the filing of a Petition for Writ of Habeas Corpus (ECF No. 1) and was referred to a united states magistrate judge for pretrial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and the Local Rules of Court for Magistrate Judges.

The magistrate judge filed a Report and Recommendation on February 9, 2012 (ECF No. 13) recommending that Respondents' Motion to Dismiss (ECF No. 11) be granted and that the Petition for Writ of Habeas Corpus be dismissed as moot. On February 16, 2012, Petitioner filed Objections to the Report and Recommendation (ECF No. 14). Petitioner's objections do not undermine the recommendation of the magistrate judge.

After *de novo* review of the pleadings and documents in the case, together with the Report and Recommendation, and the Objections thereto, the following order is entered:

**AND NOW**, this 17<sup>th</sup> day of February, 2012:

**IT IS HEREBY ORDERED** that Respondents' Motion to Dismiss (ECF No. 11) is **GRANTED**.

**IT IS FURTHER ORDERED** that the Petition for Writ of Habeas Corpus is **DISMISSED AS**

**MOOT.**

**IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**.

**IT IS FURTHER ORDERED** that the Report and Recommendation (ECF No. 13) is **ADOPTED** as the Opinion of the Court.

**IT IS FURTHER ORDERED** that the Clerk of Court mark this case **CLOSED**.

**AND IT IS FURTHER ORDERED** that pursuant to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, Plaintiff has thirty (30) days to file a notice of appeal as provided by Rule 3 of the Federal Rules of Appellate Procedure.

By the Court:

s/ Terrence F. McVerry  
Terrence F. McVerry  
United States District Judge

James M. Malarik  
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